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10/694,088	10/28/2003	Mitsuru Iwasaki	2003-1505A	3480
513 7590 07/01/2009 WENDEROTH, LIND & PONACK, L.L.P. 1030 15th Street, N.W., Suite 400 East Washington, DC 20005-1503				
EXAMINER				
COOLMAN, VAUGHN				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* MITSURU IWASAKI,  
JUNICHIRO HARA, KAZUNORI NAMAI,  
HIRONORI MURAMOTO, and  
MICHITAKE SUMIDA

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Appeal 2009-000586  
Application 10/694,088  
Technology Center 3600

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Decided:<sup>1</sup> July 1, 2009

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Before WILLIAM F. PATE III, JENNIFER D. BAHR, and  
STEVEN D.A. McCARTHY, *Administrative Patent Judges*.

WILLIAM F. PATE III, *Administrative Patent Judge*.

DECISION ON APPEAL

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<sup>1</sup> The two-month time period for filing an appeal or commencing a civil action, as recited in 37 CFR § 1.304, begins to run from the decided date shown on this page of the decision. The time period does not run from the Mail Date (paper delivery) or Notification Date (electronic delivery).

## STATEMENT OF CASE

This is an appeal from the final rejection of claims 1, 4, 17 and 18. Claims 2, 3 and 5-16 stand withdrawn from consideration. These are the only claims in the application. We have jurisdiction over the appeal pursuant to 35 U.S.C. §§ 134 and 6.

The claimed invention is directed to an automobile cooling system which can control a shutter that varies the cooling air provided to an automatic transmission based on the automatic transmission working fluid temperature.

Claim 1, reproduced below, is further illustrative of the claimed subject matter.

1. An automotive heat exchanging system comprising:

a heat exchanger mounted at a front of an engine and an automatic transmission and to be supplied with a coolant;

an electric fan located at the front of said automatic transmission and operable to ensure airflow through said heat exchanger;

a shroud attached to and covering peripheral portions of said electric fan and said heat exchanger to form an air passage inside of said shroud for allowing airflow through said heat exchanger to flow toward said automatic transmission;

a shutter arranged in said shroud and having a periphery attached to said shroud, said shutter being operable to open and close said air passage;

an automatic transmission oil temperature sensor for sensing a temperature of oil in said automatic transmission and for outputting an automatic transmission oil temperature signal; and

a controller for controlling opening and closing of said shutter based on the automatic transmission oil temperature signal received from said automatic transmission oil temperature sensor so as to control the temperature of the oil in said automatic transmission.

### REFERENCES

The references of record relied upon by the examiner as evidence of obviousness are:

Nixon	US 4,476,820	Oct. 16, 1984
Tsuchikawa	US 4,539,943	Sep. 10, 1985
Temmesfeld	US 4,756,279	Jul. 12, 1988
Suzuki	US 5,090,270	Feb. 25, 1992

### REJECTIONS

Claim 1 stands rejected under 35 U.S.C. § 103 as unpatentable over Temmesfeld in view of Suzuki.

Claim 4 stands rejected under 35 U.S.C. § 103 as unpatentable over Temmesfeld in view of Suzuki and further in view of Nixon.

Claims 17 and 18 stand rejected under 35 U.S.C. § 103 as unpatentable over Temmesfeld in view of Suzuki and further in view of Tsuchikawa.

Appellants argue that neither Temmesfeld nor Suzuki discloses a controller for controlling the temperature of the fluid in an automotive transmission. Brief 8-9.

Therefore, the issue for our consideration is whether the Appellants have established the Examiner erred in finding that the prior art disclosed all the elements of the claimed subject matter so that a combination of these

elements would have been obvious within the purview of § 103.

### OPINION

We have carefully reviewed the rejections of the claims on appeal in light of the arguments of the Appellants and the Examiner. As a result of this review, we have determined that the applied prior art does not establish the prima facie obviousness of the claims on appeal. Accordingly, the rejections of all of the claims on appeal are reversed. Our reasons follow.

These are our findings with respect to the scope and content of the prior art and the differences between the prior art and the claimed subject matter. We are in agreement with the Examiner that Temmesfeld discloses an automotive heat exchanger with the heat exchanger or radiator 3 mounted in the front of the engine 7, an electric fan 6, a shroud 9, and a shutter or rolling shade 4 and 5 disposed within the shroud. Temmesfeld does not teach a transmission oil temperature sensor or controller.

Suzuki discloses a control system for an automatic transmission wherein controller 20, with a CPU, monitors the transmission oil temperature at sensor 23 to control the opening and closing of bypass valve 19. When the oil temperature is low and the viscosity of the working fluid is high, flow to the low clutch 11 via the orifice 13 is inhibited. Under such conditions, the controller 20 opens the bypass valve 19 so that the accumulator 14 and low clutch 11 are fully supplied with fluid and may offer quicker response. Suzuki differs from the claimed subject matter in that the controller 20, while controlling the transmission operation based on the sensed transmission oil temperature, does not control any external heating or cooling means as argued by the Appellant. Inasmuch as Temmesfeld does

not disclose control of the transmission temperature based on a sensed temperature of the transmission working fluid, and inasmuch as Suzuki does not disclose controlling the transmission temperature based on sensing of temperature of the transmission working fluid, neither reference relied upon by the Examiner, teaches the external control of the automatic transmission temperature based on the temperature of the automatic transmission working fluid. Accordingly, Appellant has convinced us that the Examiner has erred in the § 103 rejection of claims 1, 4, 17 and 18, because an element of Appellants' claimed combination is missing in each of Temmesfeld and Suzuki.

We have carefully analyzed the disclosure of Nixon and Tsuchikawa but find that neither reference supplies the missing element in the Examiner's combination of references. Therefore, under these circumstances, we are constrained to reverse the rejections of claims 1, 4, 17 and 18.

#### ORDER

The rejections of claims 1, 4, 17 and 18 are reversed.

#### REVERSED

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